ENDORSEMENT

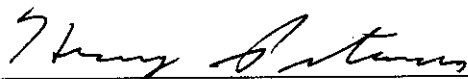
Colida v. Nokia Inc.
07 Civ. 8056 (KMW) (HBP)

Defendant's application to stay proceedings on plaintiff's motion to amend is denied. Defendant never answered the initial complaint in this matter and, instead, moved to dismiss the complaint. A motion to dismiss, however, is not a "responsive pleading" within the meaning of Rule 15(a)(1)(A) and does not terminate a plaintiff's right to amend the initial complaint. 6 Charles A. Wright, Arthur R. Miller & Mary K. Kane, Federal Practice & Procedure § 1483 at 584-85 (2d ed. 1990). Thus, plaintiff does not need leave of court to amend his complaint.

I am addressing defendant's motion to dismiss by deeming it to be directed to plaintiff's amended complaint.

Dated: New York, New York
March 12, 2008

SO ORDERED


HENRY PITMAN
United States Magistrate Judge

Copies mailed to:

Mr. Tony Colida
750 Montpelier Boulevard
Suite 1210
St. Laurent, H4L 5A7
Montreal Quebec
Canada

David R. Francescani, Esq.
Jorge M. Torres, Esq.,
Fish & Richardson P.C.
Citigroup Center- 52nd Floor
153 East 53rd Street
New York, New York 10022-4611

FISH & RICHARDSON P.C.

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

Citigroup Center
153 East 53rd Street,
52nd Floor
New York, New York
10022-4611

Telephone
212 765-5070

Facsimile
212 258-2291

Web Site
www.fr.com

March 11, 2008

VIA OVERNIGHT COURIER

Hon. Henry Pitman
Chief Magistrate Judge
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 750
New York, New York 10007-1312

MAR 12 2008



ATLANTA

AUSTIN

BOSTON

DALLAS

DELAWARE

MUNICH

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Re: *Colida v. Nokia Inc.*, No. 07 Civ. 8056

Dear Judge Pitman:

We represent Defendant Nokia Inc. in the case referenced above. This letter responds to Plaintiff Tony Colida's recent request for leave to amend his Complaint. (See Docket Entry No. 13.)

Nokia's motion to dismiss the complaint is now pending before the Court as is Colida's request for a default judgment. Briefing on both motions is complete. Nokia opposes Colida's application for leave to amend his complaint and respectfully requests that the Court stay proceedings in this case until it decides the motion to dismiss.

Mr. Colida's original complaint alleged that Nokia Inc. infringed two of his design patents and demanded damages in the amount of \$100 million. In his amended complaint, Colida now seeks to add to this case additional claims of patent infringement under two new design patents. He also alleges damages in the amount of \$1 billion.

Colida's latest allegations are completely meritless and do not save his complaint from dismissal. His request to amend his complaint is intended to unnecessarily prolong this action. Colida tried this very tactic in the previous lawsuit against Nokia that was before Your Honor. See *Colida v. Nokia Inc.*, No. 05 Civ. 9920 (KMW)(HP). In that case, the Court dismissed Colida's complaint for failure to state a claim and denied Colida's request to amend.

Colida's allegations in this case are virtually identical to the ones that the Court determined were without merit in the previous case. Accordingly, Nokia respectfully

FISH & RICHARDSON P.C.

Hon. Henry Pitman
March 11, 2008
Page 2

submits that staying the proceedings in this case until the Court decides Nokia's motion to dismiss is warranted.

Respectfully submitted,

FISH & RICHARDSON P.C.

A handwritten signature in black ink, appearing to read "David Francescani", is written over a horizontal line.

David Francescani (DF 9701)
Jorge M. Torres (JT 2901)
Citigroup Center, 52nd Floor
153 E. 53rd Street
New York, New York 10022
Telephone: (212) 765-5070
Facsimile: (212) 258-2291

cc: Tony Colida